

STATE IMPLEMENTATION PLAN CONSIDERATIONS

The Illinois Environmental Protection Agency (Illinois EPA) is proposing amendments to Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code) to satisfy Clean Air Act (CAA) requirements for public participation under a State Implementation Plan (SIP)-approved Prevention of Significant Deterioration (PSD) Program, 42 U.S.C. §§7410(a)(2)(C) and 7471. The PSD program is required by Section 165 of the federal CAA. The Illinois EPA is proposing that these regulatory amendments be made to 35 Ill. Adm. Code Part 252, Public Participation in the Air Pollution Control Program.

While the Illinois EPA is proposing to amend relevant provisions in Agency rules, 35 Ill. Adm. Code Part 252, a related Pollution Control Board (Board) rulemaking, R2019-001, would create a state PSD permitting program (35 Ill. Adm. Code Part 204) and make relevant amendments to the Board's procedural regulations to provide for appeals of PSD permits to the Board. Currently, Illinois has the federal PSD program as the Illinois EPA implements the federal PSD program under a delegation agreement with the United States Environmental Protection Agency (USEPA). Part 204 is intended to supplant the federal PSD program in Illinois once it is approved by USEPA and takes effect. Part 204 would be directly enforceable by Illinois EPA and other parties under the authority of both state and federal law. The PSD program is a construction permitting program that applies for the proposed construction of new major facilities or "sources" of emissions and proposed major modifications of existing major sources.

The proposed amendments to Part 252 would meet the public participation requirements for a state PSD program as set forth in 40 CFR 51.166(q) and would generally be consistent with the provisions of the public participation requirements in 40 CFR Part 124 pertinent to the existing federal PSD rule at 40 CFR 52.21. Given that the public participation requirements addressed by the proposed revisions to Part 252 would be substantially identical to the currently applicable federal PSD program, the proposed amendments are also likely approvable as a revision to Illinois' SIP in accordance with Section 110(l) of the Clean Air Act.

Illinois is required to submit the proposed state PSD program including the requirements for public participation to the USEPA as a revision to Illinois' SIP. Section 110(l) of the CAA prohibits USEPA from approving a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. As previously addressed, the proposed provisions revising 35 Ill. Adm. Code Part 252 would meet the SIP requirements for public participation in a state PSD program, 40 CFR 51.166(q), and would accurately reflect the public participation requirements of the federal PSD program, 40 CFR Part 124. Given that the public participation requirements of the state PSD permit program addressed by the proposed revisions to Part 252 would be substantially identical to the currently applicable federal PSD program, the proposed amendments are approvable as a SIP revision pursuant to the CAA Section 110(l).